

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PERFORMANCE HEALTH, INC.
and BIOFREEZE ASSOCIATES

Opposers

v.

WELLNESS INTERNATIONAL
NETWORK, LTD.

Applicant.

Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514

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Opposition No. 91155875

Serial No. 76/421875

Mark: PERFORM X

12-08-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #78

CERTIFICATE OF EXPRESS MAIL
<small>I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail No. EV 207523055 US with sufficient postage in an envelope addressed to Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3514 on:</small>
<u>12/8/2003</u>
<small>(Date of Mailing)</small>
<u>Bryan Haynes</u>
<small>(Name of Person Mailing Document)</small>

<small>(Signature)</small>

**ABANDONMENT OF TRADEMARK APPLICATION WITH
OPPOSERS' CONSENT**

Applicant, Wellness International Network, Ltd., through its attorneys and pursuant to 37 C.F.R. § 2.68, hereby expressly abandons the above-identified application, which was opposed in Opposition No. 91155875, without prejudice. Applicant requests that said application be withdrawn and the opposition terminated.

This abandonment is being filed with the below written consent of the opposing parties.

Respectfully submitted,

**WELLNESS INTERNATIONAL
NETWORK, LTD.**

By: 

Bryan Haynes
Stephen L. Sapp
Locke, Liddell & Sapp LLP
2200 Ross Avenue, Suite 2200
Dallas, Texas 75201-6776
Telephone (214) 740-8554
Facsimile (214) 740-8800

ATTORNEYS FOR APPLICANT

Date: December 8, 2003

CONSENT OF OPPOSER

Opposers, Performance Health, Inc. and Biofreeze Associates, through their attorneys, hereby consent to Applicant's foregoing express abandonment of application Serial No. 76/421875 for the trademark "PERFORM X" without prejudice and further requests that the opposition be terminated accordingly.

Respectfully submitted,

PERFORMANCE HEALTH, INC.

By: *K.E. Baldauf*

Kent E. Baldauf
Webb Ziesenheim Logsdon Orkin & Harrison
700 Koppers Bldg., 436 Seventh Avenue
Pittsburg, Pennsylvania 15219-1818
Telephone (412) 471-8815
Facsimile (412) 471-4094

November 25
Date: ~~October~~, 2003

ATTORNEYS FOR OPPOSERS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ABANDONMENT OF TRADEMARK APPLICATION WITH OPPOSERS'S CONSENT was mailed first-class mail, postage prepaid, to Kent E. Baldauf, Webb Ziesenheim Logsdon Orkin & Harrison, 700 Koppers Bldg., 436 Seventh Avenue, Pittsburg, Pennsylvania 15219-1818, attorneys for Opposers, this ~~5th~~ day of

December,

Bryan Haynes
Bryan Haynes

VVAB

LOCKE LIDDELL & SAPP LLP

ATTORNEYS & COUNSELORS

2200 ROSS AVENUE
SUITE 2200
DALLAS, TEXAS 75201-6776

AUSTIN • DALLAS • HOUSTON • NEW ORLEANS

(214) 740-8000
Fax: (214) 740-8800
www.lockeliddell.com

DIRECT NUMBER: (214) 740-8554
email: bhaynes@lockeliddell.com

December 8, 2003

VIA EXPRESS MAIL NO. EV 207523055 US

Assistant Commissioner for Trademarks
Box TTAB NO FEE
2900 Crystal Drive
Arlington, VA 22202-3513



12-08-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #78

Re: Notice of Opposition
Serial No. 76/421875
Filed: April 4, 2003

Mark: PERFORM X
Published in the Office Gazette on: December 17, 2002
Opposition No. 91155875
Our File No: 041901/00001

Dear Sir or Madam:

Enclosed for filing in the U.S. Patent and Trademark Office are the following:

1. Abandonment of Trademark with Opposer's Consent (in triplicate) with Express Mail Certificate of Mailing included;
2. Certificate of Service to Counsel of Record; and
3. Return Receipt Postcard.

It is believed that no fee is due for submission of these papers. However, the Commissioner is hereby authorized to charge any additional fees which may be required to Deposit Account No. 12-1781 (041901/00001).

Sincerely,

Bryan Haynes
For the Firm

BH/ght

Enclosures

cc: Kent E. Baldauf (w/enclosure)